IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 18131 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE D.H.WAGHELA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RAJNIKANT KANJIBHAI KANANI & 1 - Petitioner(s)
Versus
THE DEPUTY COLLECTOR & 2 - Respondent(s)

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Appearance :
MR RC KAKKAD for Petitioner(s) : 1 - 2.
None for Respondent(s) : 1 - 2.
MS NISHA PARIKH, AGP for Respondent(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE D.H.WAGHELA

Date : 27/07/2007

ORAL JUDGMENT

1. ***Rule***. Learned AGP Ms. Nisha Parikh waives

service for respondent.

2. The petitioner is aggrieved by the rejection of the application for making a reference after accepting the requisite amount by way of deposit under the provisions of Section 32B of the Bombay Stamp Act, 1958(for short ‘the Act’).

3. It was submitted by the learned counsel Mr. Kakkad that the petitioner was aggrieved by the original order dated 21.03.2003, which was made under the provisions of Section 32A of the Act and by which the market value of the property was determined. It was submitted that, that order was never received by the petitioner and when the petitioner came to know about that order, he had sought to make an application for reference under the provisions of Section 32B of the Act, but that attempt was thwarted by the impugned order and communication dated 02.07.2007.

4. It was conceded, on instructions, by learned AGP Ms. Parikh that the original order under

Section 32A of the Act was not duly served upon the petitioner and therefore, the objection of limitation in the matter of seeking a reference by the petitioner could not be sustained. It was submitted on behalf of the respondent that now the application for reference shall be accepted if the petitioner deposits the requisite amount of 25% of the difference of duty payable by him within a period of 15 days and necessary challan shall be furnished by him for the purpose of making deposit. It was also stated that if the appropriate application were made after complying with the requirements of Section 32B of the Act, the Collector concerned shall draw up a statement of the case and refer it to the Chief Controlling Revenue Authority within a period of 60 days and the authority shall consider the case on merits in accordance with law after affording to the petitioner an opportunity of being heard.

5. Upon the above statement being made and recorded, the petition was not pressed for any

further relief. Accordingly, it is partly allowed with the direction that the petitioner shall be furnish the necessary challan, he shall deposit the requisite amount on or before 13th August, 2007 and the procedure as recorded hereinabove shall follow.

6. Rule is made absolute accordingly with no order as to costs.

(D.H.WAGHELA, J.)

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